

WATER COUNCIL MEETING

Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

July 14, 2004
9:00 a.m.

Members present: Councilors Bridges, Bradley, Butler, Cowan, Densberger, DiMarzio, Frost, Funk, Patenaude, Phillips, and Varotsis

Members absent: Councilors Glines, McLeod, Ingham, Barrett, and Dupee.

Chairman Bridges opened the meeting at 9:00 a.m.

1. Approval of Minutes of June 9, 2004 Meeting

A motion was made by Councilor Phillips to accept the minutes of the June 9, 2004 meeting as presented. The motion was seconded by Councilor Butler and unanimously voted.

2. Approval of State Aid Grants

Steve Snell of the Wastewater Engineering Bureau requested approval of one state aid grant as set forth in a memo from Bureau Administrator John R. Bush, P.E. to Harry T. Stewart, P.E., Director, Water Division dated June 30, 2004.

Councilor Funk moved to approve the grant and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Varotsis seconded the motion and it was unanimously voted.

WHEREAS, The following municipality has applied to the Department of Environmental Services, under the provisions of RSA 486, for a grant in the amount listed to aid in the defraying of the costs resulting from the construction of a sewage disposal facility, as defined in said Chapter:

<u>MUNICIPALITY</u>	<u>PROJ. NO.</u>	<u>PROJECT DESCRIPTION</u>	<u>AMOUNT</u>
Belmont	C-675	Silver Lake Area Sewers	\$ 433,630

WHEREAS, The Department of Environmental Services has examined said application as to the eligibility of the construction costs for State contributions; and

WHEREAS, The Water Council finds that said project is intended to control or reduce pollution in the surface waters of the State as defined in RSA 485-A;

NOW THEREFORE, The Water Council finds that all of the provisions of RSA 486 have been met by said applicant and respectfully recommends that the Governor and Executive Council approve said grant and authorize payment thereof through the Department of Environmental Services as provided for in said Chapter.

3. **Approval of Drinking Water Filtration Grants**

Richard Skarinka, P.E. of the Water Supply Engineering Bureau requested approval of one state aid grant as set forth in a memo from Rene Pelletier, P.G., Manager, Land Resources Management Programs to Harry T. Stewart, P.E., Director, Water Division dated June 18, 2004.

Councilor Butler moved to approve the grant and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Patenaude seconded the motion and it was unanimously voted.

WHEREAS, The following water system has applied to the Department of Environmental Services, under the provisions of RSA 486-A, for a grant in the amount listed to aid in defraying the costs resulting from compliance with the Surface Water Treatment Rule as defined in said Chapter:

<u>Public Water System</u>	<u>Grant#</u>	<u>Project</u>	<u>Amount</u>
Jackson Water Precinct	04-1211010	New Water Treatment Plant	\$485,027.76

WHEREAS, The Department of Environmental Services has examined said application as to the eligibility of the construction costs for state contributions; and

WHEREAS, The Water Council finds that said project is intended to protect public health as defined in RSA 485-A;

NOW THEREFORE, The Water Council finds that all the provisions of RSA 486-A have been met by said applicant and respectfully recommends that the Governor and Executive Council approve said grant and authorize payments thereof through the Department of Environmental Services, as provided for in said Chapter.

4. **Status of Appeals**

Michael Sclafani distributed an Appeals Status Report and reviewed pending appeals with the Council.

- **Docket No. 03-10 WC - Appeal of Conservation Law Foundation**
A stay remains in effect on this appeal pending the outcome of a Wetlands Council appeal on related issues.
- **Docket No. 03-14 WC - Appeal of Gerald A. Bell**
A stay remains in effect on this appeal pending the results of a Merrimack County Superior Court case on related issues.
- **Docket No. 04-05 WC - Freudenberg-NOK General Partnership**
On July 13, 2004 appellant filed a Motion to Extend Stay as the parties are engaged in settlement negotiations.

Councilor Varotsis made a motion to grant the appellant's Motion to Extend Stay on this appeal for 60 days. Councilor Funk seconded the motion and it was unanimously voted.

- **Docket No. 04-14 WC - Mark and Marianne Bonaiuto**

The subject of this appeal is a Shoreland Protection Act waiver which was granted on May 12, 2004 to Daniel and Margaret Osborn, Big Island Pond in Atkinson for expansion of a nonconforming structure, WB #2004-00355. On July 1, 2004 a Notice of Appeal and a Motion to Waive Procedural Rule Env-WC 203.02 was filed. On July 13, 2004, a letter in support of appellants' Motion to Waive Procedural Rule Env-WC 203.02 was filed by the Director of the DES Water Division. Also on July 13, Attorney Bernard Campbell filed on behalf of the applicants an Appearance, a Motion to Intervene, an Objection to Motion to Waive Rule and a Motion to Dismiss Appeal.

9:13 a.m. A recess was called to allow councilors time to review documents filed in this appeal.

9:25 a.m. The meeting was reconvened.

After a brief discussion, the following vote was taken:

Councilor DiMarzio made a motion to table action on the appeal of Mark and Marianne Bonaiuto pending an opinion from Council's attorney on appellants' standing. Councilor Varotsis seconded the motion and it was unanimously voted.

Mr. Sclafani will attempt to reach Council's attorney prior to adjournment.

5. NH Drinking Water Rules Env-Ws 300 - Readoption

Bernard Lucey, P.E., Water Supply Engineering Bureau, reviewed proposed changes to the NH Drinking Water Rules, which will expire in June 2005.

Readoption of Env-Ws 310-319 - Drinking Water Quality Standards

The existing rules include the maximum contaminant levels (MCLs) for public water systems in New Hampshire. The proposed changes conform the rules to federal rule modifications, consolidate tables, and clarify rule language.

In response to concerns expressed by councilors regarding MtBE, Harry Stewart indicated that there are no federal standards for MtBE levels and that the 13/ppb is a state standard set by the Department of Health and Human Services. A petition to ban MtBE in NH has been filed with EPA by the DES Air Resources Division. Also, the NH Attorney General's Office has filed a lawsuit, which if successful, will provide money to help with cleanup efforts. Councilor Densberger added that the American Waterworks Association is actively opposing a federal energy bill which would exempt oil companies from cleanup costs.

Selina Makofsky of the Water Supply Engineering Bureau explained that the rules contain two tables listing MCLs, one for primary or health-related MCLs and the other for secondary or aesthetic MCLs. Ms. Makofsky also explained that when primary MCLs are exceeded the rules require notification to consumers by the public water system. The Waste Management Division is responsible for notifying abutters within

500' of affected properties in the event of groundwater contamination by the gasoline contaminant, MtBE. There is also a statutorily imposed notification level specific to MtBE of 5ppb, which is a one time notification of consumers by the public water system.

Readoption of Env-Ws 360-362 - General Operational Requirements of a Public Water System

A minor change was made to the rule stating that water utilities should develop operational rules so customer problems will be handled in a consistent manner.

Readoption of Env-Ws 364 - Backflow Prevention

Mr. Lucey commented that there are no substantive changes to these rules.

Readoption of Env-Ws 372 - Design Standards for Small Public Water Systems and Proposed Env-Ws 373 - Design Standards for Non-Community Public Water Supply Systems

Three categories of small systems are currently contained in Env-Ws 372. The proposed changes separate rules for Category 1 (residential) into Env-Ws 372. Category 2 (school and workplace systems) and Category 3 (hotels and campgrounds) are addressed in Env-Ws 373.

Readoption of Env-Ws 374-377 - Design Standards for Large Public Water Systems

Mr. Lucey indicated that the changes to this rule are to consolidate into one part the distribution, treatment and storage rules for large systems, defined as serving more than 1,000 users.

Council Funk made a motion to authorize the Water Supply Engineering Bureau to continue with its rulemaking process. Councilor Densberger seconded the motion and it was unanimously voted.

6. Legislative Update

Harry T. Stewart, P.E., presented the legislative update. In response to councilors' questions, Mr. Stewart explained that under SB 534, Reorganization of State Government, the Department of Health and Human Services has transferred the Bureau of Environmental and Occupational Health to DES, Commissioner's Office. The Office of Energy and Planning has transferred its Coastal Zone Management Program and the New Hampshire Estuaries Project to DES Water Division, Watershed Bureau. The commissioner of DES has authority to nominate the Air, Water and Waste Division Directors upon consultation with the respective councils.

7. Other Business

There is no other business to come before the council.

8. Next Meeting

The next meeting will be August 11, 2004.

- **Docket No. 04-14 WC - Mark and Marianne Bonaiuto**

10:05 - The council recessed to ascertain if Council's attorney has been contacted.

10:10 - The meeting reconvened.

Councilor DiMarzio advised that Mr. Sclafani was not able to reach Council's attorney.

Councilor Varotsis made a motion to table action on this appeal until the council's next meeting. Councilor Bradley seconded the motion and it was unanimously voted.

9. Adjournment

Councilor Varotsis made a motion to adjourn. Councilor Densberger seconded the motion and it was unanimously voted.

The meeting adjourned at approximately 10:10 a.m.